

STATE PROPERTIES COMMITTEE

Tuesday, October 24, 2006

The meeting of the State Properties Committee was called to order at 10:13 a.m. by Chairman Jerome F. Williams. Other members present were Mr. Robert Griffith representing the Rhode Island Department of Administration, Ms. Genevieve Allaire Johnson representing the Rhode Island Department of Attorney General and Robert Kay, Public Member. Also in attendance were Richard Kalunian, Robert B. Jackson, Michael Mitchell, Maureen McMahon, Valeria Bianco and Eva Bernardo from the Rhode Island Department of Transportation; Kevin Nelson from the Rhode Island Department of Administration; Lisa Primiano and Joseph Dias from the Rhode Island Department of Environmental Management; and Robert C. Bromley from the Rhode Island Senate Fiscal Office.

A special meeting of the State Properties Committee is scheduled to be held on Friday, November 3, 2006. The next regular meeting of the State Properties Committee is scheduled to be held on Tuesday, November 14, 2006.

A motion was made to approve both the general and Executive Session minutes of the State Properties Committee meeting held on October 10, 2006, by Mr. Griffith and seconded by Ms. Allaire Johnson.

Passed Unanimously

ITEM A – Department of Transportation - A request was made for final

approval of and signatures on a Temporary Easement Agreement relative to the Replacement of the Barrington Bridge# 123. Mr. Kalunian explained that the State Properties Committee granted conceptual approval of the temporary easement on July 18, 2006. The easement consists of 27,000± square feet of property located adjacent to the Barrington Bridge. The Department of Transportation is securing said temporary easement from the Town of Barrington for a period of three additional years for the sum of \$85,000.00. The Temporary Easement Agreement before the Committee today is essentially the same agreement as the draft agreement which was previously presented to the Committee for review in July of 2006. Mr. Kalunian indicated the Temporary Easement Agreement has been executed by the Director of the Department of Transportation and by the Town of Barrington and that he is seeking final approval and signatures from the State Properties Committee. A motion was made to approve by Mr. Griffith and seconded by Mr. Kay.

Passed Unanimously

ITEM B – Department of Transportation – A request was made for final approval of and signatures on a Quit Claim Deed between the Rhode Island Department of Transportation and Jeremiah J. Lowney, Jr. & Virginia W. Lowney for property located on Riverside Avenue in the Town of Portsmouth. Mr. Jackson explained that the State Properties Committee granted conceptual approval for the sale of this property on February 22, 2005. The property consists of 2,500 square feet of land. The appraised value of the land is \$48.00 per square foot for a total of \$120,000.00. Mr. Jackson explained that there are a few

reasons for the delay in the final documents being presented to the State Properties Committee relative to the sale of this property. The Department of Transportation requested an appraisal of the subject property in February of 2005. The appraisal was conducted and forwarded to Jeremiah J. and Virginia W. Lowney in July of 2005. Dr. Lowney disagreed with the appraised value of the property and decided to engage his own appraiser. The Department of Transportation did not receive said appraisal until December 2005, at which time it declined to accept the value determined by the private appraisal. The Department of Transportation examined the property again and determined that it would not accept less than its appraised value for the land. After a period of time, Dr. Lowney agreed to pay the Department of Transportation's appraised value for the land. The Department of Transportation then sent notice of the intended sale of this property to the Federal Highway Association. The property then had to be surveyed. The Department of Transportation received the results of said survey in September of 2006, which contributed to the delay in this transaction. Chairman Williams asked how much of a difference was there between the Department of Transportation's appraisal and Dr. Lowney's appraisal. Mr. Jackson indicated that Dr. Lowney's appraisal valued the property at \$38,000.00. Mr. Jackson provided photographs which illustrated the subject property for review by the Committee. Chairman Williams asked if there is shoreline access. Mr. Jackson indicated that there is shoreline access. Mr. Griffith asked why the State of Rhode Island had originally acquired this property. Mr. Jackson stated that it was

acquired for the Sakonnet River Bridge project. Ms. Allaire Johnson asked whether the Department of Transportation has notified the former owner and the Town of Portsmouth of the intended sale of this property. Mr. Jackson stated that both the former owner and the Town of Portsmouth were notified. Chairman Williams asked if the former owner had declined the property or whether the Department of Transportation was unable to locate the former owner.

Mr. Jackson explained that the former owner is deceased and the Town of Portsmouth has declined any interest in the property. Mr. Nelson of Statewide Planning asked whether Dr. Lowney is seeking to purchase another parcel of land in the vicinity from the Department of Transportation. Mr. Jackson indicated that Dr. Lowney is seeking to purchase land located across the street. Mr. Jackson stated that the Department of Transportation has been before the State Properties Committee relative to said property and the Department is in the process of notifying the former owners and the Town of Portsmouth of that intended sale. Chairman Williams asked how large a parcel of land this additional property is. Mr. Jackson indicated the property consists of approximately 9,038 square feet. Chairman Williams asked if said property is buildable. Mr. Jackson indicated that Dr. Lowney is encroaching on this State-owned land. Dr. Lowney built a garage on the property after receiving a building permit from the Town of Portsmouth in 1989, to build this structure. Apparently, the Town's maps were incorrect as they indicated the parcel of land was owned by Dr. Lowney. Chairman Williams reminded Mr. Jackson that as the garage is encroaching on State-owned property, the purchase

price should reflect retroactive compensation to the State of Rhode Island for the length of the encroachment. A motion was made to approve and execute the Quit Claim Deed by Mr. Kay and seconded by Ms. Allaire Johnson.

Passed Unanimously

ITEM C – Department of Transportation – A request was made for conceptual approval to convey approximately 8,065 square feet of property located on Harris Avenue in the City of Providence to Habitat for Humanity. Ms. Bianco explained that since the arrival of Habitat for Humanity in Providence, it has purchased various parcels of land and built 35 single-family homes at its own expense. Once a home is completed, Habitat for Humanity donates it to a needy family. Ms. Bianco provided the Committee with a map and photographs of the subject property for review. Ms. Bianco explained that this land was condemned for the Harris Avenue/Route 10 Highway project. Ms. Bianco indicated that the neighborhood is an extremely depressed area and in dire need of safe affordable housing. Habitat for Humanity wishes to purchase this small parcel of land to construct a single-family home. Habitat for Humanity is willing to pay fair market value for the property. Mr. Kay asked if the necessary local zoning approvals have been obtained for this project. Ms. Bianco indicated that Habitat for Humanity has received some preliminary approvals; however, she is unsure whether said approvals are in writing. Ms. Bianco stated that based upon Habitat for Humanity's experience with building homes in Olneyville and South Providence, she has no reason to doubt that this project will conform to the local zoning

requirements. Ms. Bianco stated that houses constructed in the inner-city were typically built very close to each other. Mr. Griffith indicated that the map Ms. Bianco is utilizing for her presentation depicts existing structures on the subject property. He asked if this map is accurate. Ms. Bianco stated that the map is not accurate, as it depicts the subject property as it was in 1949. Ms. Bianco indicated that those structures have since been demolished as illustrated in a more current map, which she provided to the Committee. Chairman Williams asked where access to the property is located. Ms. Bianco indicated the access is located directly on Harris Avenue. Chairman Williams asked if there are any environmental issues associated with the property. Ms. Bianco indicated that no environmental analysis has been conducted. Mr. Kay questioned how close the homes will be to each other if another home is constructed on this small parcel of land. Ms. Bianco indicated that she has visited the site and it does not appear to be undersized. Ms. Bianco does not believe a single-family home would create a crowding situation. Ms. Bianco reiterated that Habitat for Humanity has successfully constructed and donated 35 single-homes in Providence and she is confident in its ability to select appropriate properties for its projects. A motion was made to approve by Mr. Griffith and seconded by Mr. Kay.

Passed Unanimously

ITEM D – Department of Transportation – A request was made for conceptual approval to convey approximately 18,450 square feet of property located at Airport Road in the Town of Westerly to Briar Ledge Homes. Ms. Bianco provided a map of the subject property to

the Committee for its review. Ms. Bianco explained that Briar Ledge Homes wishes to purchase this property for purposes of beautification and parking. A drainage ditch is located on a corner of the property, which must be maintained. There is presently no access to the property. Access to Briar Ledge Homes' development will be through Winnopaug Road. The development will be an adult community of approximately 10 to 12 town homes built on its own property. Ms. Bianco indicated that Briar Ledge Homes recently purchased a parcel of land in the immediate vicinity. Briar Ledge Homes and the United States Post Office are the only abutters to the subject property. The United States Post Office advised the Department of Transportation, in writing, that it has no interest in purchasing the subject property. Initially, the Office of Housing and Community Development was interested in exploring the possibility of developing the property for affordable housing. However, because of the property's close proximity to the runway of the Westerly Airport, it was determined that the property is not appropriate for the construction of affordable homes. Ms. Bianco also indicated that the deed conveying the property will include restrictions limiting the use of this property for parking and landscaping only and will not permit the construction of any residential structure. The deed will also provide the Westerly Airport with a permanent aerial easement. Ms. Bianco indicated that this property is undersized, as the minimum zoning requirement in the Town of Westerly is 20,000 square feet and the subject property is only 18,450 square feet. Chairman Williams asked Mr. Nelson if the Statewide Planning Program is comfortable

with the deed restrictions. Mr. Nelson indicated that the Statewide Planning Program is comfortable with the deed restrictions. Ms. Allaire Johnson asked Ms. Bianco to clarify her representation that no residential structure will be allowed to be constructed on the property as the deed restriction proposed by the Statewide Planning Program states that there will be no structure erected unless a “Determination of No Hazard to Air Navigation” is issued by the United States Federal Aviation Administration. Ms. Bianco indicated that even if a “Determination of No Hazard to Air Navigation” is issued by the United States Federal Aviation Administration, the Department of Transportation will not allow any residential structure to be erected on the property. Ms. Bianco stated that Briar Ledge Homes is well aware that it will not be allowed to build any structure on this property. Ms. Allaire Johnson clarified that in addition to the restrictions proposed by the Statewide Planning Program, the Department of Transportation will include an additional deed restriction prohibiting the construction of any structure on the subject property. Mr. Griffith inquired whether the need for a vegetative buffer in the non-development buffer area, which fronts Airport Road, has been addressed. Ms. Bianco stated that a vegetative buffer was not addressed relative to the western boundary of the property owned by Briar Ledge Homes. Mr. Griffith worried that the developer could go right up to the property line in that area. Ms. Bianco indicated that Briar Ledge Homes wants to preserve the open-space environment. Ms. Bianco indicated the developer has the space it needs to build the town homes. Ms. Allaire Johnson asked

Ms. Bianco to once again explain the parcels of land which Briar Ledge Homes has already acquired from the State of Rhode Island. Ms. Bianco explained that Briar Ledge Homes acquired 15,000 square feet of State-owned land and indicated the parcel of land on the map. Ms. Allaire Johnson asked when Briar Ledge Homes acquired that parcel of land. Ms. Bianco indicated that Briar Ledge Homes purchased said parcel of land in June of 2006. Ms. Bianco indicated that the Department of Transportation would not sell anymore of the land because it fronts the United States Post Office. Ms. Bianco assumed that Briar Ledge Homes approached the United States Post Office independently to inquire about the land because the Department of Transportation received a letter from the United States Post Office stating that it is not interested in the remaining parcel of land. Mr. Griffith noted another parcel of land on the map and asked who owned the property. Ms. Bianco indicated the land is owned by the United States Post Office. Mr. Griffith asked what will prevent Briar Ledge Homes from purchasing the land owned by the United States Post Office and acquiring one large continuous parcel of land. Ms. Bianco stated that the United States Post Office is in no position to sell any of its land. Mr. Griffith asked why. Ms. Bianco indicated it is a highly functioning post office and will only continue to grow with the community. Ms. Bianco stated that the land owned by the United States Post Office is not for sale. Ms. Allaire Johnson expressed her concern that this entity is purchasing small parcels of land one at a time and will ultimately attain a fairly large parcel of land, which the State of Rhode Island could have offered at a public sale. Ms. Allaire

Johnson also commented that although the Statewide Planning Program seems to have signed off on this acquisition, its recommendations clearly indicate it has reservations relative to the sale of this property. Chairman Williams asked Ms. Bianco if there is any other State-owned land in the general vicinity of the subject property, which this developer may consider buying. Ms. Bianco stated that she is not aware of any other State-owned land, which this developer wishes to purchase. Ms. Allaire Johnson reiterated her concern relative to the land being purchased in a piece meal manner. Ms. Allaire Johnson stated that as the land is being sold in pieces it appears that it only has value to this particular entity as opposed to anyone else. However, had the property been presented as one large parcel of land, the State Properties Committee would have recommended the property be offered at a public sale. Chairman Williams recommended that when property is presented to the State Properties Committee for conceptual approval, in the event that there are discussions with the same party relative to other parcels of land in an area, it makes sense to disclose that information to the Committee at that time. Ms. Bianco indicated that Briar Ledge Homes decided to purchase additional property after having closed on the first parcel of land. Ms. Bianco stated that unless an applicant is forthcoming relative to its intentions, there is no way to anticipate future acquisitions. Chairman Williams explained that smaller parcels of land, which are undersized, have more value to an abutter and the State Properties Committee will recommend a private sale. However, when there is a larger parcel of land the Committee will recommend a

public sale to ensure that the State of Rhode Island obtains the best and highest value for said property. Mr. Nelson explained that the Statewide Planning Program shares the Committee's concern regarding this issue. Mr. Nelson indicated that one of the questions which is asked on the Request to Convey State-Owned Property form is whether there are any adjoining or nearby State-owned parcels of land. Mr. Nelson indicated that sometimes the information provided relative to this question is very informative; other times, the information is very vague. Mr. Nelson indicated that another problem, which both the Statewide Planning Program and the State Properties Committee experience, is that they are provided with plat maps designed for highway needs, which show relatively narrow corridors, many of which are historical. Given the Geographic Information Technology that is available, Mr. Nelson suggested that in the future, the Department of Transportation should utilize maps, which not only delineate the subject property, but also encompass a quarter mile radius surrounding the subject property. Chairman Williams agreed with Mr. Nelson's suggestion regarding the plat maps. Mr. Griffith indicated that as this request is for conceptual approval, he will move to approve. A motion was made to approve by Mr. Griffith and seconded by Mr. Kay. Ms. Allaire Johnson opposed the motion. Mr. Griffith indicated that he felt Mr. Nelson's comments were particularly appropriate, because had the State Properties Committee examined this particular request previously, it would have realized that there is adjoining State-owned property, which would have caused the Committee to recommend a Request for Proposals. However,

because the requests were presented on separate occasions, there are now several relatively small purchases adding up to one large holding by the same entity. Mr. Kay also commented that when possible full disclosure should be made relative to the sale of surplus property and any adjoining State-owned property.

Passed Three to One

ITEM E – Department of Environmental Management – A request was made for approval of and signatures on a Conservation Agreement between the State of Rhode Island, the Town of Exeter and The Nature Conservancy, Inc. for 170 acres of land in the Town of Exeter formerly owned by Everett Peck. Mr. Dias provided the Committee with maps, which illustrated the subject property for its review. Mr. Dias indicated the property is located at the headwaters of the Queen River. Mr. Dias indicated that he previously appeared before the State Properties Committee relative to two properties located to the north of the subject property. At that time, the Department of Transportation was granted conservation easements for both those properties with the Town of West Greenwich and The Nature Conservancy. The subject property, known as the Peck property, is another piece of the puzzle relative to headwater protection of the Queen River. The Nature Conservancy purchased the property from the Peck family in 2004, for a purchase price of \$930,000.00. The Nature Conservancy will retain fee title and ownership of the property. The Town of Exeter was awarded an open space grant in 2004, to purchase a conservation easement for the Peck property from The Nature Conservancy. The Nature Conservancy is granting a

conservation easement to the Town of Exeter and the State of Rhode for the amount of the open space grant, which is \$385,534.00. The Nature Conservancy and the Town of Exeter will manage the property. The property will be open to the public for hiking, birdwatcher and similar uses only, as it is a sensitive area. Chairman Williams clarified that The Nature Conservancy paid \$930,000.00 for the property. Mr. Dias indicated the conservation easement is valued at approximately 85% of that amount. Mr. Kay clarified that the property was appraised at a value of \$1,220,000.00 by Russ Appraisals Services. Mr. Dias indicated the property contained numerous house lots and an abundance of road frontage. Mr. Griffith asked if there are any structures on the property. Mr. Dias indicated that there are no structures on the property. Chairman Williams asked if the source of the funds for this easement is the Rhode Island Bond Funds. Mr. Dias indicated Rhode Island Bond Funds is the source of the funds. A motion was made to approve by Mr. Griffith and seconded by Ms. Allaire Johnson.

Passed Unanimously

ITEM F – Department of Environmental Management – A request was made

for approval of and signatures on an Easement Agreement between the Department of Environmental Management and David and Janet Cornell over approximately 400 square feet of property in the Town of Coventry. Ms. Primiano explained that this easement is for a well. Mr. & Mrs. Cornell recently built a home on the north side of Trestle Trail and just west of Route 102. The well was mistakenly placed on

State-owned property. The Department of Transportation discovered this encroachment just prior to occupancy of the home. The well encroaches on State-owned property by approximately 15 feet. The Department of Environmental Management's project engineer examined the property. The property is a wooded area and is not part of any construction portion of Trestle Trail. Other than granting this easement, the only other option was to require the Cornells to relocate the well. The Department of Environmental agreed to allow them to purchase a permanent well easement on the property. The Department of Environmental Management received an appraisal, which was reviewed by both Ms. Primiano and James O'Connor of the Department of Transportation Real Estate Division. The fee for this easement is \$500.00. In accordance with the Easement Agreement, the Cornells do not have the right to replace the well. Mr. Griffith asked if when there is a well head sited on State-owned property, is there some kind of signage required to indicate to the random traveler that they are in a well head protection zone. Ms. Primiano stated that she did not believe any signage was required because the well is a private well as opposed to a public well. Mr. Griffith clarified that in this case, the well is a private well located in a public area. Ms. Primiano reiterated that she has neither seen nor heard of any such requirement. Ms. Primiano indicated that the Department of Environmental Management granted the easement with the understanding that the Cornells are fully responsible for the well. Mr. Griffith asked if the \$500.00 fee is a onetime payment or an annual payment. Ms. Primiano indicated the fee is a onetime fee. Ms.

Primiano indicated that the Cornells were required to obtain liability insurance and the State of Rhode Island is also indemnified under the Easement Agreement. Ms. Primiano indicated that this is an unfortunate situation and the Department of Environmental Management is not pleased to have to bring this request before the State Properties Committee for approval of the Easement Agreement. However, the Department of Environmental Management is hoping to accommodate the Cornells and minimize any hardship to them, while still protecting public interest. Mr. Griffith asked if either the Easement Agreement or the liability insurance indemnifies the State of Rhode Island in the event of contamination to the well. Ms. Primiano stated that paragraph 9 of the Easement Agreement states that the quality and quantity of water is at the sole risk of the Grantee. A motion was made to approve by Ms. Allaire Johnson and seconded by Mr. Griffith. Mr. Kay opposed the motion.

Passed Three to One

ITEM G & H– Department of Mental Health, Retardation and Hospitals – In the absence of a representative from Department of Mental Health, Retardation and Hospitals or The Homestead Group, Chairman Williams explained that these items concern two former group homes located at 492 South Main Street and 504 Gaskill Street in the City of Woonsocket. Apparently, the properties are in deplorable condition. Chairman Williams indicated that he had requested these properties be placed on the agenda seeking conceptual approval for their sale. The buildings are vacant and deteriorating. Chairman Williams is concerned that someone could

seriously injure themselves if they attempted to enter either building. A motion was made to defer both Items G & H to the special meeting of the State Properties Committee to be held on Friday, November 3, 2006, at 2:30 p.m. by Mr. Griffith and seconded by Mr. Kay.

Passed Unanimously

ITEM I – Department of Administration – This item was deferred to a special meeting of the State Properties Committee to be held on Friday, November 3, 2006, at 2:30 p.m., at the request of the Department of Administration.

ITEM J – Department of Transportation - A request was made for approval of and signatures on a Letter Agreement between the Rhode Island Department of Transportation and Carpionato Properties, Inc. relative to the Farmer's Market. Mr. Mitchell explained that this Letter Agreement would allow a sixty (60) day extension of the Purchase and Sales Agreement for the Farmer's Market. It would extend the closing date of the property to December 18, 2006. Mr. Mitchell indicated that when the parties entered into the Purchase and Sales Agreement, they were aware of certain clouds on the title in the form of a blanket easement over the property which is held by Amtrak. The Department of Transportation has been working with Carpianoto Properties, Inc. and Amtrak to remove the blanket easement and still guarantee the access, which Amtrak requires over another portion of State-owned property. The parties have also been working to release a blanket mortgage lien held by the Federal Railroad Administration. The documents concerning the lien are in order and will be circulated

for execution in the near future. A motion was made to approve by Mr. Griffith and seconded by Ms. Allaire Johnson. Chairman Williams inquired whether Mr. Mitchell thought the outstanding issues will be resolved within sixty (60) days. Mr. Mitchell indicated that the issues are fairly complex and certain internal procedures must be followed, but he is hopeful that any outstanding issues will be resolved within that period of time.

Passed Unanimously

The Committee moves to go into Executive Session, pursuant to Rhode Island General Law 42-46-4(a)(5) for the specific purpose of discussion or consideration related to the acquisition or lease of real property for public purpose, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.

A motion was made to enter into Executive Session by Mr. Griffith and seconded

by Mr. Kay. A roll call vote was taken and the votes were as follows:
Mr.

Griffith voted "Aye", Mr. Kay voted "Aye", Ms. Allaire Johnson voted "Aye" and

Chairman Williams voted "Aye".

The State Properties Committee came out of Executive Session at 11:20 a.m.

ITEM E1 – Department of Transportation – A request was made for approval to acquire 35 square feet of land for the purpose of constructing improvements to sidewalks located in the Town of Portsmouth. After discussion in Executive Session, a motion to approve was made by Mr. Griffith and seconded by Ms. Allaire Johnson.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:21 a.m. A motion was made to adjourn by Ms. Allaire Johnson and seconded by Mr. Griffith.

Passed Unanimously

Holly H. Rhodes, Executive Secretary